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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,956	07/03/2003	Xavier De Sloovere	33154-CIP 1	4628

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EXAMINER

LEVY, NEIL S

ART UNIT	PAPER NUMBER
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1615

DATE MAILED: 05/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/613,956	Applicant(s) DE SLOOVERE ET AL.	
	Examiner NEIL LEVY	Art Unit 1615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-148 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-148 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claim1,3-18,21-27,48-52,54,58 drawn to Hydrophobic Si, classified in class 424, subclass 421.
- II. Claim2,19,20,28-31,39,65,85, drawn to mixed particles, classified in class 264, subclass 7.
- III. Claim32,40-44, drawn to Aqueous dispersions, classified in class 424, subclass 406.
- IV. Claim33-36, drawn to GELS, classified in class 516, subclass 906.
- V. Claim37,38,57, drawn to GUMS, classified in class 514, subclass 780.
- VI. Claim45,46, drawn to POLYMERS, classified in class 523, subclass 122.
- VII. Claim 53,62-68, drawn to HYDROPHILIC COATINGS, classified in class 427, subclass 219.
- VIII. Claim55,56,59,69-79, drawn to HYDROPHOBIC PARTICLES, classified in class 427, subclass 212.
- IX. Claims 62-64,66-68,80-84,86-100, drawn to HYDROPHOBIC PARTICLES, classified in class 516, subclass 923.
- X. Claims 101 -134, drawn to MULTI FUNCTIONAL COATINGS, classified in class 427, subclass 256.

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- XI. Claims 135,136, drawn to SUPPORTS, classified in class 427, subclass 219.
- XII. Claim137-139,141, drawn to COMBATTING PROCESSES, classified in class 504, subclass 117.
- XIII. Claim142, drawn to PREVENTING TROUBLES, classified in class 504, subclass 104.
- XIV. Claim140,143-148, drawn to CHICKEN PROCESSES, classified in class 119, subclass 532.
- XIV—XXXXV Claim47, drawn to ATTRACTANTS; each of
INSECTS,WORMS,ACARIDES, MOLLLUSCE, MITES,or TICKS;,
REPELLANTS; each of INSECTS, WORMS, ACARIDES, MOLLLUSCE,
MITES, TICKS ,DIRT or BIRDS; INSECTICIDES; GERMICIDES;
ANTIBACTER IALS; HERBICIDES; GROWTH REGULATORS; CHITIN
INHIBITORS; ANTIFUNGALS; ANTIALGAELS;HORMONES;
CHELATING AGENTS;ESSENTIAL OILS; PLANT EXTRACTS;
MOLLUSC COMPOUNDS; BIOCIDES; RODENTICIDES & ACARICIDES
each of which is classified in class 514, one or more of subclass 1-
788.

The inventions are distinct, each from the other because of the following reasons:

Inventions of Groups XII-XIV and I-XIII,XV-XXXXV are related as product and process of use. The inventions can be shown to be distinct if either or both of the

following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case Each of the compounds or classes of compounds can be used in methods other than those of Group I, for example , Malathion, an insecticide, can be used to kill aphids on plants, requiring quite different considerations of toxicity, dispersability, and acceptability than malathion applied to chic skin.

Each of the goups I-IV patentably distinct & independent as the components of each are not required of the others.

Each of the classes of active components making up each of the groups XIV-XXXXV are classes of independent & patentably distinct compounds, & uses thereof.

The Groups I- XXXXV have acquired a separate status in the art as shown by their different classification, have acquired a separate status in the art because of their recognized divergent subject matter, the search for any 1 group is not required for any other Group, and a search and examination of the entire application would place an undue burden on the Examiner, the present restriction requirement is proper for examination purposes.

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This application contains claims directed to the following patentably distinct species: the ultimate species of pest- for example, TICK. The species are independent or distinct because each may or may not be controlled by any given chemical; some attracted, some repelled .

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, 1-148 generic.

This application contains claims directed to the following patentably distinct species: ULTIMATE SPECIES of Si particles: sio₂, kaolinite---. The species are independent or distinct because each compound or material is distinct from the others & has different physical & chemical properties.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, 1-54,57,58,61,65,68,80-148 are generic.

Art Unit: 1615

This application contains claims directed to the following patentably distinct species: ULTIMATE SPECIES OF COATING ;chlorosilane, for example---. The species are independent or distinct because each has different physical & chemical properties.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, 1-148 generic.

This application contains claims directed to the following patentably distinct species: species of ADDED MATERIAL; CLAY, ALUMINUM,. The species are independent or distinct because the resulting compositions have different chemical/ physical properties.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, 2,19,20,28-31,33-39,45-51,55-148are generic.

This application contains claims directed to the following patentably distinct species: species of form; POWDER,SUSPENSION, CREAM. The species are independent or distinct because the properties of the different forms are different.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, 48 generic.

Art Unit: 1615

This application contains claims directed to the following patentably distinct species: support species; ANIMAL, HAIR, PEOPLE. The species are independent or distinct because effects on different animate & inanimate supports affect the dispersability, efficacy, stability & other factors.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, 135,136 generic.

This application contains claims directed to the following patentably distinct species: SPECIES OF ANIMAL OF PLANT. The species are independent or distinct because pests vary with the host organism, as does acceptability & toxicity of the control active agent.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, 137-142 are generic.

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Art Unit: 1615

This application contains claims directed to the following patentably distinct species: ultimate compound of the classes of materials of claim 47; for example, malathion. The species are independent or distinct because the particular compounds constituting any or all of the classes of materials are independent, with different physical, chemical properties & are independently useful, & patentably distinct.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, 47,135-148 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species.

MPEP § 809.02(a).

Applicant is advised that the reply to this requirement to be complete must

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include an election of the invention to be examined even though the requirement is traversed (37 CFR 1.143).

Because the above restriction/election requirement is complex, a telephone call to applicant's agent to request an oral election was not made. See M.P.E.P. Sec, 812.01.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NEIL LEVY whose telephone number is 571-272-0619. The examiner can normally be reached on Tuesday-Friday, 7 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MICHAEL WOODWARD can be reached on 571-272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


NEIL LEVY
Primary Examiner
Art Unit 1615
